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**OCT 28 2008**

**OFFICE OF PETITIONS**

In re Application of  
Diahann Grasty et al.  
Application No. 10/735,296  
Filed: August 17, 2004  
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition, filed August 18, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed March 20, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 19, 2008.

Petitioner's statements are confusing. It is stated that the Notice of Abandonment was not received by petitioner, but this would have no bearing on the actual abandonment of the application as it is merely a courtesy letter. The Notice of Abandonment states at the bottom "The applicant did not response to the 'Notice of Informal or Non-responsive Amendment' sent on June 16, 2007." The file record shows that no such Notice of Informal or Non-responsive Amendment was ever mailed by the Office. Since no such notice was mailed, there was no need for petitioner to file any further papers at that point.

Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

It is noted that the petition included a terminal disclaimer and fee, however a petition under 37 CFR 1.181 requires no terminal disclaimer or fee. The disclaimer is not acceptable and the fee was not processed as the credit card payment was declined.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842

This application is being referred to the Technology Center Art Unit 2612 for consideration of petitioner's amendment filed June 14, 2007. If the amendment is determined to be informal or non-responsive then a notice to that effect shall be mailed.

A handwritten signature in black ink, consisting of a stylized 'C' followed by a long horizontal stroke.

Carl Friedman  
Petitions Examiner  
Office of Petitions